

Remarks

Favorable consideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1-9 are pending in the application. Claims 1-9 have been rejected. Claims 2, 6, and 9 are cancelled. Claims 1, 3-5, and 8 have been amended, support for which can be found in the original application as filed. No new matter has been added.

Rejection Under 35 USC §112, Second Paragraph

Claims 1-6 and 9 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention. Without acquiescing to the Examiner's rejection, Applicants have amended claims 1 and 3-5 (and therefore any dependent claims therefrom), and have cancelled claims 2, 6, and 9. The changes and/or cancellations obviate at least rejection numbers 5, 6, and 8-10.

Rejection number 7 states that the phrase "which when associated with cellular proteins has a PKB Ser 473 kinase activity and has an apparent molecule weight of 450-650 kDa" renders its claims indefinite. Applicants posit that the claims clearly define the claimed protein as having PKB Ser 473 kinase activity and an apparent molecular weight of 450-650 kDa when it is associated with cellular proteins. Both of those features of the composition appear after the claims' comma, and both clearly are associated with "when associated with cellular proteins."

Rejection Under 35 USC §102(b)

Claims 1-9 are rejected under 35 U.S.C. §102(b), as anticipated by Matsuzaki (FEBS Letters, 1996, 305-8)(hereafter, "Matsuzaki"); in view of Toker et al. (J. Biol. Chem., 2000, 275:8271-4) (hereafter, "Toker"). According to the Examiner, in essence, Matsuzaki teaches a purified RAC-protein kinase (PBK/Akt), whose properties are further demonstrated by Toker. The Examiner never lists any properties of the PBK/Akt as disclosed by Matsuzaki, and instead posits that these are inherent therein, and are better explained by extrinsic sources such as Toker.

Toker lists autophosphorylation as a property of PBK/Akt, which the Examiner would posit is an inherent property of the Matsuzaki PBK/Akt, and which would put it within the scope of the present claims. However, as demonstrated by at least the enclosed Hill reference (Hill, MM et al. (2001) J Biol Chem.;276(28):25643-6)(beginning at the bottom of page 25643), it is well known in the art that PKB does not have an autophosphorylation activity, and that the observation of Toker relies on an in vitro artefact. Applicants are prepared to show this by recitation and provision of further references, and/or by 132 declaration, if necessary.

Therefore, the properties exhibited by the presently claimed compositions are not inherent in the PBK/Akt as disclosed by Matsuzaki (and certainly not as exhibited by Toker).

Rejection Under 35 USC §103(a)


Claims 1-9 are rejected under 35 U.S.C. §102(b), or in the alternative, under 35 U.S.C. §103(a) as obvious over Dedhar (US 6,338,958). According to the Examiner, Dedhar teaches a composition comprising a purified integrin-linked kinase (ILK) which has PKP Ser 473 kinase activity when associated with cellular proteins. Also according to the Examiner, Dedhar teaches that the purified ILK has a molecular weight of 59 kDa, and that the composition also contained a 32 kDa and a 70 kDa protein. As with the §102(b) rejection above, the Examiner states that the properties in the claimed compositions of matter are inherent to the proteins disclosed by alleged prior art reference Dedhar.

It is, however, known in the art that ILK is a pseudokinase, or a dead kinase, and that the activity observed by Dedhar might have been due to impurities (is definitely not due to ILK's functioning as a purified kinase). Furthermore, as seen in at least Example 7 of the present application, ILK also lacks the phosphorylation activity of the claimed compositions of matter. Therefore, not all elements of the present claims are met, and the present claims are therefore free and clear of the art. Applicants are prepared to show this by recitation and provision of further references, and/or by 132 declaration, if necessary.

Applicants respectfully request entry of the amendments to the claims and submit that no new matter is added thereby. Applicants also respectfully contend that said amendments, in conjunction with the arguments made herein, put the present application in condition for allowance. Should the Examiner have any questions, please contact the undersigned attorney.

Respectfully submitted,

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